

**MINUTES
of the
THIRD MEETING
of the
MORTGAGE FINANCE AUTHORITY ACT
OVERSIGHT COMMITTEE**

**August 31, 2009
Mortgage Finance Authority Office
Albuquerque, New Mexico**

The third meeting of the Mortgage Finance Authority Act Oversight Committee was called to order by Senator Nancy Rodriguez, chair, at 10:05 a.m. on Monday, August 31, 2009, at the office of the New Mexico Mortgage Finance Authority in Albuquerque, New Mexico.

Present

Sen. Nancy Rodriguez, Chair
Rep. José A. Campos, Vice Chair
Rep. Ernest H. Chavez
Sen. Eric G. Griego
Rep. Joni Marie Gutierrez
Sen. Cisco McSorley

Absent

Rep. Janice E. Arnold-Jones
Sen. Mark Boitano

Advisory Members

Sen. Rod Adair
Rep. Thomas A. Anderson
Rep. Andrew J. Barreras
Sen. Richard C. Martinez
Sen. Gerald Ortiz y Pino
Rep. Dennis J. Roch
Rep. Benjamin H. Rodefer
Sen. Sander Rue

Rep. Sandra D. Jeff
Rep. James Roger Madalena

Staff

Pam Ray, Staff Attorney, Legislative Council Service (LCS)
Claudia Armijo, LCS

Guests

The guest list is in the meeting file.

Copies of all handouts and written testimony are in the meeting file.

Welcome

Senator Rodriguez welcomed the committee members and guests to the meeting, and the members introduced themselves. She thanked Senator Adair and Senator Timothy Z. Jennings for the tour the members had been given at the last meeting in Roswell. She also noted that the ribbon-cutting ceremony for the Mescalero housing project was a satisfying event.

New Mexico Mortgage Finance Authority (MFA) Update

—Jay Czar, Executive Director, MFA

Mr. Czar, executive director for the MFA, updated the members of the committee on the operations of the MFA. He said the MFA board had met the previous week to discuss the strategic plan. He noted the MFA operates under the same fiscal year as the federal government. He added the board was developing a costs savings plan due to limited resources.

Mr. Czar told the members that during the prior year, the MFA had initiated external surveys on all MFA programs in an effort to improve operations. The surveys looked at MFA's organization and how the MFA can do a better job.

Mr. Czar advised the committee that more city governments are realizing that housing is critically important. He added that the MFA is spending time and effort with both private and public entities to improve the housing market. He noted that Eric Nore, director of the MFA's homeownership program, will address efforts to help improve the liquidity in the housing market later in the meeting. Regarding homeownership, Mr. Czar mentioned that in the Sunday, August 25, 2009, newspaper there was a full-page story about the MFA's homeownership program, as well as the federal government's tax credit program for first-time home buyers. He noted the tax credit was obtainable only if the home is purchased and closed by November 30, 2009. The tax credit is for an amount up to an \$8,000 and is received by the homebuyer after the purchase. Mr. Czar said the MFA had also put together a tax credit program in New Mexico, where 40% of homebuyers are first-time homebuyers. He explained that after a homebuyer purchases a home, the purchaser completes the appropriate documents and then can receive up to an \$8,000 tax credit. He noted that there are income qualifications that must be met. A single person may not make more than \$75,000 in annual income and a couple not more than \$150,000.

Mr. Czar explained that the MFA oversees four programs: a program for the homeless, tax credit assistance, a tax credit exchange and a weatherization program. He noted that he believes the MFA has been quite successful in getting money out through these programs. Additionally, the MFA provides training dealing with fraud and the proper uses of the MFA's program resources.

Noting that many New Mexico residents purchase mobile homes as their residence, Senator Rodriguez inquired about the homebuyer's tax credit program and whether first-time homeowners purchasing a mobile home could qualify for the program. Mr. Nore advised that if a person had owned a home in the previous three years, the person would not qualify for the program. And he clarified that if a person had not owned a home in the past four years, the

person would qualify for the program. Senator Rodriguez related the situation of one of her constituents who had inherited an older mobile home requiring improvements in order to be occupied. Mr. Czar said he would look into that particular issue.

In conclusion, Mr. Czar discussed the MFA's funding. He mentioned that it had been receiving two sources of funds not coming from the state. He also said that the MFA's investments are down considerably and the bond program has required subsidies. He said the programs are being monitored and the MFA has strong reserves.

Housing Preservation

Owner-Occupied Housing Rehabilitation

—Lionel Holguin, Director of Community Development, MFA

Mr. Holguin, the MFA director of community development, presented to the committee on the subject of owner-occupied housing rehabilitation. Mr. Holguin began by explaining that the program received funding in the amount of \$2.9 million from a federal grant. He said the funds are separated into two groups. He noted that the cities of Albuquerque and Las Cruces do not receive any of these funds because they receive funding through the federal Department of Housing and Urban Development (HUD).

According to Mr. Holguin, the rehabilitation program allows owners to rehabilitate their homes to a certain level, including walls, windows, doors and ways to meet "green standards". The program helps homeowners repair or replace major house systems like plumbing, septic and electrical. The work is done through an application process, and, if a homeowner is eligible, there will be a contract between the sovereign and the homeowner. Mr. Holguin said that certain income criteria must be met and there were two ways in which the money for the rehabilitation could be awarded: first, a low-interest loan that must be repaid if the home is sold to a buyer who is not eligible for the program; and second, a low-interest loan that does not require the homeowner to provide a 25% match. In the second case, the state gets the funds from the United States Department of Agriculture, the loans are not transferable and the owner must occupy the home for a 10-year period or the loan must be repaid. Mr. Holguin noted that the homeowner rehabilitation program is available throughout the state and has been used to rehabilitate homes in many counties like Taos, Hidalgo and Dona Ana.

Mr. Holguin, replying to committee queries about how districts for rehabilitation awards were determined, said that districts are based on counties and HUD determines the award amount. Mr. Holguin told members that copies of a chart, which indicates the criteria and categories for the HUD programs, would be made available. When asked which New Mexico county had the residents with the lowest incomes, Mr. Holguin said it was probably Mora. Mr. Holguin said the award process may take from three to five months.

A discussion ensued regarding the subgrantees who perform the rehabilitation work. It was noted that some of the subgrantees are government entities, while others are private. The contracts usually run for 18 months. In exercising due diligence, the MFA must assure that

subgrantees are financially stable. The financial information of subgrantees is reviewed by an attorney. When asked about rehabilitation programs within the City of Albuquerque, Mr. Holguin was not aware of any such program.

Review of Selected New Initiatives

New Mexico Affordable Housing Charitable Trust

—Joseph Montoya, Deputy Director of Programs, MFA

Mr. Montoya, MFA deputy director of programs, began discussing charitable trusts. He explained that the MFA seeks out various sources of funds, like the state, corporations, individuals and foundations. The charitable trust creates an avenue where a foundation can use some of its investment funds. He added that with the recent stock market downward trends, many foundations' funds are also down.

Mr. Montoya told that the committee that the MFA is currently working with three towns, Gallup, Carlsbad and Hobbs, pursuant to the Affordable Housing Act. It was noted by the committee that in some areas, like Meadow Lake, there is a large methamphetamine problem; consequently, there are a lot of boarded-up houses in those areas. Mr. Montoya replied that one of the issues the MFA is dealing with is trying to get counties to look at that very issue. He added that there are areas with needs but with no money or delivery system. He said the MFA has been experimenting with creating a delivery system since many of the areas in need have no chance for assistance because there is not a delivery system available where they are located.

Senator Rodriguez asked for clarification regarding the federal \$8,000 tax credit program for first-time homebuyers. She asked if all first-time homebuyers get \$8,000, or, if at the end of the year, they do not need to pay taxes on the \$8,000. Mr. Montoya explained that many people have a low tax liability to begin with, so they would actually get a check for the \$8,000. Otherwise, the homeowner puts the \$8,000 toward the taxes owed for that year. So not everyone will actually get a check for \$8,000.

Rental Housing Preservation Strategies

—Linda Bridge, Director of Housing Development, MFA

Ms. Bridge, MFA's director of housing development, spoke about the MFA's program to preserve affordable housing within the state. She said that between 1995 and 2003, New Mexico lost affordable housing due to use restrictions. She advised that the preservation of rental properties is important, as it helps conserve public dollars that are already invested in affordable housing. Additionally, affordable rental units that are lost are less likely to be replaced due to limited availability of credit and subsidies and the high costs associated with new construction.

Ms. Bridge noted a number of challenges in the preservation of low-income rental properties. Of significant concern is the number of property owners who opt out of their contracts for use restrictions. She said the property owners do this for many reasons, including:

- 1) they may be able to make more money by converting the units to condominiums than by selling them;
- 2) they may have property that has deteriorated;
- 3) there is a limited availability of funding sources;
- 4) they have a complicated financial structure; and
- 5) they experience a limited cash flow, thus adding to their debt.

Ms. Bridge said the MFA is trying to add sources by encouraging Section 8 contracts providing for longer renewals (10 years). The MFA also tries to get owners who are looking to sell to partner with buyers who are willing to use the properties for rental housing. Between 2003 and 2008, the MFA has helped preserve 3,500 rental units. She added that the MFA strives to create policies that support long-term preservation, but there is only so much the MFA can do if a property owner wants to opt out of use restrictions.

Ms. Bridge told the committee that other states are implementing policies to provide property and owner tax incentives. Some states have enacted notice and right-of-first-refusal laws. Other states have elected to directly regulate rent levels or owner conversion costs. States can provide funding for at-risk properties, and code enforcement inspectors can work with property owners to make redevelopment feasible. She closed by stating that some states have even given municipalities eminent domain powers.

The committee revisited the topic of rental property preservation, asking if the state could benefit in that area by creating tax incentives for property owners. Ms. Bridge replied that any incentives that might keep owners from opting out of the rental restrictions would be helpful, like owners selling to buyers committed to preservation and then the state giving the buyer a tax incentive.

Reduced Property Tax Valuations for Affordable Housing

—Joseph Montoya, Deputy Director of Programs, MFA

Mr. Montoya spoke about tax valuations for affordable housing. He said there was an issue of people getting taxed for the full value of their home even if they owed less. He said there were changes in the tax code last year. Mr. Montoya mentioned that the MFA is trying to engage community shareholders and local leaders to pass ordinances.

A discussion ensued regarding whether properties could remain occupied while work is completed. It was noted that sometimes tenants could remain, but if they have to leave the premises, action is taken pursuant to the Relocation Assistant Act. Members asked what the definition of "affordable housing" is. The response from the MFA was that the definition of affordable housing varies and is designated in two ways:

- 1) income levels, with a target of 60% of the median income; and
- 2) rents at 30% of income levels.

Tax Credit Loan Program and MFA Mortgage Lending Update

—Erik Nore, Department of Homeownership, MFA

Mr. Nore led a discussion about the state tax credit program. He was asked about the tax credit reduction, and noted that the tax credit cannot be used in counties with a population above 100,000. Mr. Czar interjected that the MFA was looking at getting that changed, saying the MFA has statistical information indicating a need for a change.

Mr. Nore spoke more specifically about the federal tax credit program for first-time homebuyers. He said that at first the program was not too successful, so it was revised in February 2009, making it a fully refundable tax credit, with the homebuyer receiving a check from the federal government, regardless of the homeowner's tax bracket. He noted that, unlike the 2008 program, the amended program allows a homebuyer to use both the federal tax credit program and the state MFA tax credit program.

Mr. Nore told the committee the MFA developed a loan program based upon the federal tax credit whereby the MFA would lend the homebuyer money to be used for the down payment on the purchase of a new home. Then, when the homebuyer received the tax credit check from the federal government, the MFA loan would be paid back. However, this loan was not allowed under the Federal Housing Authority (FHA).

MFA's Green Building Initiatives and the EnergySavers Program

—Michael Furze, Program Specialist, MFA

Mr. Furze, MFA program specialist, briefly updated the committee regarding the EnergySavers Program, as well as other MFA green initiatives. He told the members that most of the program's funding has been spent. Regarding the state tax credit program, he said the MFA was asking the legislature to end the restrictions relating to where funds can be used. Mr. Furze noted that there were currently 19 green development projects. He added that the MFA provided low-interest loans for the cost of energy efficient upgrades.

A motion to approve the minutes of the July 1-2, 2009 meeting was approved, and there being no more committee business before the committee, the third meeting of the MFA Act Oversight Committee for the 2009 interim was adjourned at 12:06 p.m.